

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

JOSEPH SERIAN,

Plaintiff,

v.

// CIVIL ACTION NO. 1:08cv74  
(Judge Keeley)

PENQUIN GROUP (USA), INC.,  
LARRY JACKSON KOLB, and  
JOHN DOES 1-10,

Defendants.

ORDER CANCELING SCHEDULING CONFERENCE

After considering the defendants' pending motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6), and because materials outside the pleadings have been presented by both the plaintiff and the defendants, under Federal Rule of Civil Procedure 12(d), the Court will convert the pending motion to a motion for summary judgment under Federal Rule of Civil Procedure 56.

The Court further concludes that oral argument on this motion is not needed at this time, and therefore **CANCELS** the scheduling conference currently set for **December 4, 2008 at 2:30 p.m.** If appropriate, it will reschedule that conference at a later date.

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ORDER RESETTING SCHEDULING CONFERENCE

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The Court directs the Clerk of Court to mail a copy of this Order to the pro se plaintiff, certified mail, return receipt requested, and to transmit copies of this Order to counsel of record.

DATED: November 26, 2008.

/s/ Irene M. Keeley  
IRENE M. KEELEY  
UNITED STATES DISTRICT JUDGE